

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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MOZETT PETWAY,

Petitioner,

v.

BRUCE DAVIS et al.,

Respondents.

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Civ. No. 19-12978 (FLW)

**MEMORANDUM AND ORDER**

Petitioner, Mozett Petway (“Petitioner”), is a prisoner serving out a sentence imposed by the courts of the State of Maryland at New Jersey State Prison, in Trenton, New Jersey, pursuant to the Interstate Corrections Compact. Petitioner initiated this case by filing a petition for writ of habeas corpus purportedly under 28 U.S.C. § 2241. (*See* Pet., ECF No. 1.) The proceeding was initially terminated, as the Petition did not include a proper filing fee or an application to proceed *in forma pauperis*. (ECF No. 2.) The Court also explained to Petitioner that, as he seeks to challenge the execution of a sentence imposed by a state court, his petition must be construed as seeking relief under 28 U.S.C. § 2254. (*Id.*) Accordingly, the Court gave petitioner the notice required by *Mason v. Myers*, 208 F.3d 414 (3d Cir. 2000), and directed Petitioner to notify the Court whether he wished to proceed with his original petition as filed or to withdraw that petition and file an amended, all-inclusive § 2254 petition. (*See id.*)

Petitioner has now submitted the required filing fee and an Amended Petition under § 2254, and the case has been reopened. (ECF No. 3.) The Amended Petition has added as a respondent to the case Dayena Corcoran, the Commissioner of the Maryland Department of Corrections. Upon screening the Amended Petition, the Court has determined that dismissal of

the case without answers from the respondents is not warranted. *See* Rule 4 of Rules Governing § 2254 Cases.

Accordingly, IT IS, on this 18<sup>th</sup> day of July 2019,

ORDERED that, pursuant to Rule 4 of the Rules Governing § 2254 Cases, the Clerk of the Court shall serve a copy of this Memorandum and Order and a copy of the Amended Petition, (ECF No. 3), upon the named respondents, Bruce Davis and Dayena Corcoran, and also upon the State of New Jersey, Department of Law & Public Safety, Division of Criminal Justice, Appellate Bureau, and the Maryland Office of the Attorney General; and it is further

ORDERED that, if a Respondent intends to file any motion concerning jurisdiction or venue in this Court, the respondent shall file such motion within 30 days of the entry of this Memorandum and Order; and it is further

ORDERED that, if no motion concerning jurisdiction or venue is filed, Respondents shall file full and complete answers to all claims asserted in the Amended Petition and the accompanying memorandum of law, (ECF Nos. 3 & 3-3), within forty-five (45) days of the entry of this Order; and it is further

ORDERED that Respondents' answers shall respond to each factual and legal allegation of the Amended Petition and the accompanying memorandum of law, in accordance with Rule 5(b) of the Rules Governing § 2254 Cases; and it is further

ORDERED that Respondents' answers shall address the merits of each claim raised in the Amended Petition and the accompanying memorandum of law by citing to relevant federal law; and it is further

ORDERED that, in addition to addressing the merits of each claim, Respondents shall raise by way of the answers any appropriate defenses that Respondents wish to have the Court

consider, including, but not limited to, exhaustion and procedural default, and also including, with respect to the asserted defenses, relevant legal arguments with citations to appropriate federal legal authority; all non-jurisdictional affirmative defenses subject to waiver not raised in Respondents' answer or at the earliest practicable moment thereafter may be deemed waived; and it is further

ORDERED that Respondents shall electronically file the answers, the exhibits, and the list of exhibits; and it is further

**ORDERED that all exhibits to the answer must be identified by a descriptive name in the electronic filing entry, for example:**

**“Exhibit #1 Transcript of [type of proceeding] held on XX/XX/XXXX” or**

**“Exhibit #2 Opinion entered on XX/XX/XXXX by Judge YYYY”;** and it is further

ORDERED that Petitioner may file and serve replies to the answers within forty-five (45) days of their filing, *see* Rule 5(e) of Rules Governing § 2254 Cases; and it is further

ORDERED that the Clerk shall serve a copy of this Memorandum and Order upon Petitioner by regular U.S. mail.

*s/Freda L. Wolfson*  
FREDA L. WOLFSON  
U.S. Chief District Judge